



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 30, 1996

Ms. Sandra D. Hachem
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR96-1565

Dear Ms. Hachem:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 100412.

The Harris County Sheriff's Department (the "department") received a request for a tape recording of a 911 telephone conversation. You contend the requested information is excepted from required public disclosure under section § 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). You state that the requested information relates to the investigation of criminal allegations. The requested information is therefore "information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." We therefore conclude that section 552.108 of the Government Code excepts the requested records from required public disclosure.¹

¹Although section 552.108 is a discretionary exception that may be waived by a law enforcement agency, Open Records Decision No. 177 (1977), the information you submitted may contain information that is confidential by law pursuant to section 552.101 of the Government Code. Because section 552.352 of the Government Code imposes criminal penalties for the release of confidential information, we suggest that you request another decision from this office raising section 552.101 prior to releasing the information that is the subject of this request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to be 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/rho

Ref.: ID# 100412

Enclosures: Submitted documents

cc: Mr. Joe Izbrand
KTRH NewsRadio
510 Lovett Blvd.
Houston, Texas 77006
(w/o enclosures)